

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO. 18-CP-10-3825

K-CON, INC.,

Plaintiff,

v.

KING STREET ENTERPRISES, LLC, and
OHIO IMAGING ASSOCIATES, INC.,

Defendants.

**NOTICE OF MOTION
AND MOTION TO COMPEL**

FILED
2019 MAY 28 AM 11:39
JULIE J. ARMSTRONG
CLERK OF COURT

YOU WILL PLEASE TAKE NOTICE that the undersigned will, ten (10) days or as soon thereafter as counsel may be heard, move before this Court for an Order compelling Defendant, Ohio Imaging Associates, Inc. (“Ohio Imaging”), to adequately respond to Plaintiff’s First Set of Interrogatories, and Plaintiff’s First, Second and Third Requests for Production of Documents to Ohio Imaging and an order directing Ohio Imaging to pay Plaintiff’s reasonable attorney’s fees and expenses incurred in filing this motion and obtaining an Order.

Plaintiff served Ohio Imaging with Plaintiff’s First Set of Interrogatories, Requests for Production of Documents, and Requests for Admission on October 9, 2018.

Plaintiff served Ohio Imaging with Plaintiff’s Second Set of Interrogatories, Requests for Production of Documents, and Requests for Admission on February 14, 2019.

Ohio Imaging’s Responses to Plaintiff’s First and Second Set of Interrogatories and Requests for Production of Documents were received on March 15, 2019 (attached hereto as Exhibits A and B), but were incomplete and inadequate.

In order to obtain all of the requested documents, Plaintiff served Ohio Imaging with a Third Request for Production of Documents on April 2, 2019.

Ohio Imaging's, Response to the Third Request for Production of Documents was received on May 8, 2019 (attached hereto as Exhibit C).

Ohio Imaging's responses are incomplete and inadequate.

First Set of Interrogatories:

No. 4: No meaningful response.

No. 8: Provide the names and addresses of the shareholders of Ohio Imaging Associates, Inc.

First Set of Requests for Production:

Nos. 3, 5, 6, 8-11: Not all documents have been produced. Produce all requested documents.

No. 12: Produce documents or produce a privilege log.

Second Set of Requests for Production:

No. 1: The requested documents must be produced. All responsive documents were not produced in response to Plaintiff's First Set of Requests for Production.

No. 2: No documents were produced. Produce all requested documents.

Third Set of Requests for Production:

Produce all requested documents. All requested documents were not produced in response to previous discovery requests and must be produced.

Even the documents that were produced were not produced in accordance with Rule 34(b), SCRCP, which requires the documents be produced as they are kept in the usual course of business or organized and labeled to correspond with the categories in the requests.

Plaintiff respectfully requests an order requiring Ohio Imaging to fully and adequately respond to Plaintiff's Interrogatories and to produce all of the requested documents in the manner specified in Rule 34(b).

In accordance with Rule 11 SCRCP, I affirm that on May 13, 2019, I communicated with Defendants' counsel and have attempted in good faith to resolve the matter contained in this Motion

[SIGNATURE ON NEXT PAGE]

Respectfully submitted,

PEDERSEN & SCOTT, P.C.

A handwritten signature in black ink, appearing to read "William A. Scott", written over a horizontal line.

William A. Scott
775 St. Andrews Boulevard
Charleston, SC 29407
Tel. 843-556-5656
Fax. 843-556-5635
Email: bscott@pslawpc.com

ATTORNEY FOR PLAINTIFF

Dated this 20th day of May, 2019

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO. 18-CP-10-3825

K-CON, INC.,

Plaintiff,

v.

KING STREET ENTERPRISES, LLC, and
OHIO IMAGING ASSOCIATES, INC.,

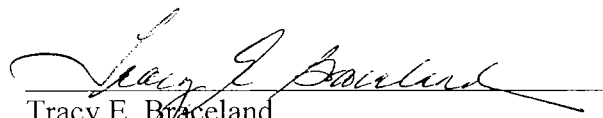
Defendants.

FILED
2019 MAY 28 AM 11:40
JULIE J. ARPSTRONG
CLERK OF COURT
BY

CERTIFICATE OF SERVICE

The undersigned paralegal at Pedersen & Scott, P.C., hereby certifies that a copy of the NOTICE OF MOTION AND MOTION TO COMPEL in the above-captioned matter has been emailed and placed in an envelope, and addressed and mailed via U.S. Mail to:

Brent Halversen, Esq.
Brent Souther Halversen, LLC
751 Johnnie Dodds Blvd., Suite 200
Mount Pleasant, SC 29464


Tracy E. Braceland
Paralegal

Dated this 20th day of May, 2019

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON)

CASE NO. 2018-CP-10-3825

K-CON, INC.,)

Plaintiff,)

vs.)

**OHIO IMAGING ASSOCIATES, INC'S
ANSWERS TO K-CON, INC.'S FIRST
SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION**

KING STREET ENTERPRISES, LLC)
and OHIO IMAGING ASSOCIATES INC.)

Defendants.)

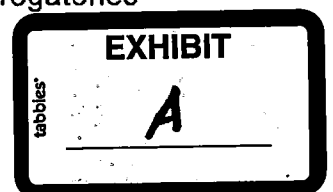
Comes now Defendant, Ohio Imaging Associates, Inc., (hereinafter "OIA")
by and through its undersigned attorneys and files this their Answers to Plaintiff's
First Set of Interrogatories, served on or about October 9, 2018, stating the
following:

GENERAL OBJECTIONS

1. Defendant objects to the Interrogatories to the extent that they are
vague, ambiguous, overly broad, unduly burdensome, not limited in time or scope,
and not relevant to the subject matter involved in the pending action.

2. Defendant objects to the Interrogatories to the extent that they seek
documents protected from discovery by the attorney-client privilege, work-product
doctrine, or any other privilege or exemption from discovery permitted under law.

3. Defendant objects to the Interrogatories to the extent that the
information requested is known to Plaintiff, to the extent that the Interrogatories



require the identification or production of documents, writing, records, or publications in the public domain or information that is equally available to or already in the possession of Plaintiff or that seek information that can be obtained from third parties with less burden and expense than obtaining them from Defendant.

4. Defendant objects to the Interrogatories to the extent that they call for or require disclosure of information that is not in Defendant's possession, custody, or control.

5. Defendant objects to the Interrogatories to the extent they seek proprietary or other confidential business and/or commercial information.

6. Defendant reserves the right to take appropriate measures to protect the privacy of individuals or parties not involved in this litigation.

7. Defendant is continuing their investigation and reserve the right to rely on any facts, documents, or other evidence it may develop or that may come to its attention at a later time. Defendant's answers to these Interrogatories are based on information known at this time. Defendant specifically reserves the right to supplement or amend its answers to the Interrogatories at any time before trial.

Answers

1. Give the names, complete addresses, and telephone numbers of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

Answer: Maryann Kanters-Cook, c/o Brent S. Halversen, Esq.

Mary Ann Kanters-Cook can testify as to interactions and communications with Plaintiff and its employees. The communications are too numerous to list in here, but encompass Plaintiff's scope of work at 484 King Street, what was actually completed, and what was deficient.

2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in this case; and if you will supply it without the necessity of a Motion, please attach a copy of your answers.

Answer:

- (a) Palmetto Craftsman contract for repairs dated January 11, 2019;
- (b) ECS Southeast, LLP Quality Assurance Report dated August 15, 2018;
- (c) VCS Fire and Security, Inc. Report dated January 29, 2019
- (d) 484 King Design File;
- (e) 484 King Project Manual (S. Arch+ Studio, LLC Report dated August 3, 2017);
- (f) 484 King Suite 205 Permit Set 2017 0710;
- (g) 484 King Suite 205 Permit Set rev 1 2017 0803;
- (h) 484 King Lobby Entrance Documents;
- (i) 484 King- Model 35D Door Frame documents;
- (j) 484 King Plans, Contract and Addenda;
- (k) 484 King Subcontractor Permit List;
- (l) 484 King – KCON Pay Apps;
- (m) Email Correspondence with KCON

3. List the names and complete addresses of any expert witnesses whom the party Proposes to use as a witness at the trial of the case.

Answer:

Justin Weaver, E.I.
William Rick Hinson
ECS Southeast, LLP
1812 Center Park Drive, Suite D
Charlotte, NC 28217

Messrs. Weaver and Archie are expected to testify as to all relevant matters within their knowledge, including, but not limited to, contract deficiencies at 484 King Street, Suite 205, Charleston, South Carolina. No statement has been taken from these witnesses. See ECS Southeast, LLP Quality Assurance Construction Report dated August 15, 2018 for the subject matter of Messrs. Weaver and Hinson observations, conclusions, and recommendations.

Solomon L. (Bud) Hay III
Vice-President
Palmetto Craftsmen, Inc.
46 Romney Street
Charleston, SC 29403

Mr. Hay is a licensed general contractor and is expected to testify consistent with his cost estimate.

RSM US LLP
1001 Lakeside Ave E, Ste 200
Cleveland, OH 44114
D: 216.622.1184 F: 216.522.1490 I
E: Laura.Turner@rsmus.com I
W: www.rsmus.com

RSM is performing a forensic accounting analysis of the costs incurred to date for the 484 King commercial upfit project. The RSM report will be forwarded upon its completion.

Defendant reserves the right to supplement its answer to this Interrogatory at a later date. Defendant reserves the right to call any witness listed in its Answer to Interrogatory No. 1, as well as any witnesses identified by other parties, as an expert witness. Defendant also reserves the right to call any expert witness listed by any other party.

4. In connection with each expert witness, give the following information:

- a. State the expert's qualifications;
- b. State the subject matter on which the expert is expected to testify;
- c. State the substance of the facts and opinions which the expert is expected to testify;
- d. A summary of the grounds of each opinion.

Answer: See respective reports, produced herewith.

5. For each person known to the party or counsel to be a witness concerning the facts of the case set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness or provide a copy of any written or recorded statements taken from witness.

Answer: See Number 1.

6. State with particularity the basis for the Defendant's defenses to the Complaint, and identify each and every document that supports each defense.

Answer: See expert reports.

7. State with particularity the basis for the Defendant's counterclaims, and identify each and every document that supports each counterclaim.

Answer: KCon failed to complete the project in accordance with the contract documents. See expert reports.

8. Identify the shareholders of Ohio Imaging Associates, Inc. by name and address.

Answer: OIA has no individual shareholders.

9. Identify each and every person that had authority to act on behalf of Ohio Imaging Associates, Inc., in connection with the work performed by Plaintiff on the property that is the subject matter of this litigation.

Answer: See Answer to Number 1 above.

10. State the date, by month, day and year, that Ohio Imaging Associates, Inc., contends the project was substantially complete.

Answer: The project remains incomplete according to the contract documents. The project was "substantially" completed on Thursday, June 21, 2018- the day that OIA networking wiring was completed. This is the day that the project was substantially completed for its intended use: a radiology office.

11. State with particularity why Ohio Imaging Associates, Inc., contends the project was considered to be substantially complete on the date set forth in its Answer to Interrogatory No. 10.

Answer: See explanation in response to Interrogatory Number 10.

12. State specifically and with particularity what work Ohio Imaging Associates, Inc. contends Plaintiff failed to complete in accordance with the contract, and state why Ohio Imaging Associates, Inc. contends that any such work does not meet the contract requirements.

Answer: See Expert Reports.

13. Identify any and all work that Ohio Imaging Associates, Inc. contends is defective, state with particularity why such work is defective, and identify the standard of care that was not met, what manufacturer requirements were not met, and/or what building code was not met.

Answer: See Expert Reports.

14. Identify what work, if any, Ohio Imaging Associates, Inc. contends that it was required to fix or repair as a result of Plaintiff's actions, identify when any such work was performed, state how much it cost to perform the work, and state why Ohio Imaging Associates, Inc. contends Plaintiff is responsible for the cost.

Answer: See Expert Reports.

15. State with particularity and identify what damages Ohio Imaging Associates, Inc. claims it is entitled to, and provide a breakdown of damages by actual damages, delay changes, liquidated damages, consequential damages, incidental damages, and any other damages that are claimed.

<u>Answer:</u>	Liquidated Damages: 67 days * \$500/day	\$33,500.00
	Palmetto Craftsmen	\$33,002.75
	Carolina Custom Air Minisplit Install	\$4,100.00
	Cook and Boardman	\$2,039.03
	VSCF	\$117.91
	Attorney's Fees and Costs Under Lien	Ongoing
<u>Total</u>		<u>\$72,759.69</u>

Defendant reserves the right to Supplement at a later date

16. State with particularity the date that Ohio Imaging Associates, Inc. contends liquidated damages began to accrue.

Answer: 121 Days from Commencement Date or April 14, 2018

17. State with particularity the date that Ohio Imaging Associates, Inc. contends liquidated damages ended, and state why the assessment of liquidated damages ended on that date.

Answer: See Answer No. 10 above.

GENERAL OBJECTIONS

1. Defendant objects to each and every Request to the extent it may be construed as calling for information subject to a claim of the attorney-client privilege, work product doctrine, right to privacy, or any other lawful privilege or immunity afforded by law.

2. Defendant objects to each and every Request to the extent that it may be construed as calling for information that constitutes trade secrets or other confidential or proprietary information relating to Defendant or others.

3. Defendant objects to each and every Request to the extent it seeks to impose obligations beyond those permitted under the South Carolina Rules of Civil Procedure or the local rules of this Court.

4. Defendant objects to each and every Request to the extent it seeks information that is a matter of public record or is as easily accessible to Plaintiff as it is to Defendant.

5. Defendant objects to each and every Request to the extent it seeks information that is already within Plaintiff's possession, custody, or control, or has previously been made available to Plaintiff.

6. Defendant objects to each and every Request to the extent it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence or, if relevant, so remote as to make its disclosure of little or no practical benefit to Plaintiff while imposing an unwarranted and extreme burden and expense on Defendant in ascertaining and disclosing such information. By the Responses set forth below, Defendant reserves the right to make all pertinent evidentiary objections at any stage in these proceedings.

7. Defendant objects to each and every Request to the extent it is not reasonably limited as to time or scope and, as a result, is overbroad, vague, ambiguous, unduly burdensome, and oppressive.

8. Defendant is continuing its investigation and reserves the right to rely on any facts, documents, or other evidence it may develop or that may come to its attention at a later time. Defendant's Responses to these Requests are based on information known at this time. Defendant specifically reserves the right to supplement or amend its Responses to the Requests at any time before trial.

RESPONSES

1. Any and all documents referred to in answering the Plaintiff's First Set of Interrogatories.

RESPONSE: Defendant's counsel is in possession of certain client file materials regarding the construction of the project that is the subject of this litigation. Specifically, the Defendant has identified discoverable documents in Answer to Plaintiff's Interrogatory Number 2, and identified document categories 2(a) through (m). These non-privileged, discoverable documents are all available for inspection and/or copying at the undersigned's office or can be delivered to be copied through Plaintiff's vendor of choice with Plaintiff responsible for the payment of any copying charges to that vendor. Defendant reserves the right to utilize any document identified by any other party to this litigation, and they reserve the right to supplement their Response to this Request as discovery progresses.

2. Any and all documents in the possession of the Defendant relating to the subject matter of this litigation.

RESPONSE: See Number 1 above.

3. Any and all documents relating to and/or upon which the Defendant bases its defenses to the Complaint.

RESPONSE: See Number 1 above.

4. Any and all documents expected to be introduced as evidence in trial of this case.

RESPONSE: The request exceeds the scope of the rules of civil procedure and seeks to invade the mental impressions and trial strategy of Defendant. Defendants are not required to inform Plaintiff which document they will introduce in evidence, only documents that may be introduced at the trial of this matter. Notwithstanding said objection and further responding, please see Number 1 above.

5. Any and all contracts, leases, or agreements between King Street Enterprises, LLC and Ohio Imaging Associates, Inc. relating to the property that is the subject matter of this litigation.

RESPONSE: Objection. See General Objections 1, 2, 3, 6 and 7. Notwithstanding and without waiving said objection, see attached lease between KSE and OIA.

6. Any and all leases relating to the premises that is the subject matter of this litigation.

RESPONSE: Objection. See General Objections 1, 2, 3, 6 and 7. Notwithstanding and without waiving said objection, see attached lease between KSE and OIA.

7. Any and all documents relating to advertising or seeking to lease or rent the property that is the subject matter of this litigation.

RESPONSE: None.

8. Any and all documents supporting the damages claimed by Ohio Imaging Associates, Inc. in its counterclaim.

RESPONSE: See Number 1 above.

9. Any and all documents relating to when Ohio Imaging Associates, Inc. took possession of the property that is the subject matter of this litigation from Plaintiff.

RESPONSE: See Number 1 above.

10. Any and all correspondence between Dr. Cook and Mrs. Cook relating to the work Performed by Plaintiff.

RESPONSE: See Number 1 above.

11. Any and all documents of any type whatsoever relating to the work performed by the Plaintiff on the property that is the subject matter of this litigation.

RESPONSE: See Number 1 above.


12. Any and all documents between Dr. Cook, Mrs. Cook, and other entity acting on behalf of Ohio Imaging Associates, Inc., and any other entity relating to the work performed by the Plaintiff on the property that is the subject matter of this litigation.

RESPONSE: Objection to the extent the request calls for communications that are attorney client and/or work product privileged. Notwithstanding and without waiving said objection, see Number 1 above.

13. If you deny Request for Admission 1 and/or 2, identify the drawing and the detail that shows and access door, and/or state specifically the contract requirements, by page and paragraph number, that requires an access door for the conference room.

RESPONSE: The plans do not specifically call out an access door to the conference room, however, the contract documents do call for 14 new controlled access door hardware. KCon failed to install 14.

Brent Souther Halversen, LLC

By: 
Brent S. Halversen
751 Johnnie Dodds Blvd., Suite 200
Mount Pleasant, SC 29464
T: 843-284-5790
F: 864-326-4844
Email: brent@halversenlaw.com

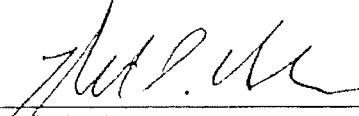
3/18, 2019.
Mount Pleasant, South Carolina

CERTIFICATE OF SERVICE

I certify that I served the Answers to Plaintiff's First Set of Requests for Admissions upon all counsel of record by affixing same with proper postage placing same with the United States Postal Service addressed to the counsel's last known address on this 18th day of March, 2019.

Brent Souther Halversen, LLC

By: _____


Brent S. Halversen
751 Johnnie Dodds Blvd., Suite 200
Mount Pleasant, SC 29464
T: 843-284-5790
F: 864-326-4844
Email: brent@halversenlaw.com

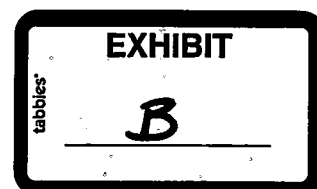
3/18, 2019.
Mount Pleasant, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
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COUNTY OF CHARLESTON)	CASE NO. 2018-CP-10-3825
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K-CON, INC.,)	
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Plaintiff,)	
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vs.)	<u>OHIO IMAGING ASSOCIATES, INC'S</u>
)	<u>ANSWERS TO K-CON, INC.'S SECOND</u>
)	<u>SET OF INTERROGATORIES AND</u>
)	<u>RESOPONSES REQUESTS FOR</u>
)	<u>PRODUCTION</u>
)	
KING STREET ENTERPRISES, LLC)	
and OHIO IMAGING ASSOCIATES INC.)	
)	
)	
Defendants.)	
)	

Comes now Defendant, Ohio Imaging Associates, Inc., (hereinafter "OIA") by and through its undersigned attorneys and files this their Answers to Plaintiff's Second Set of Interrogatories, served on or about February 14, 2019, stating the following:

GENERAL OBJECTIONS

1. Defendant objects to the Interrogatories to the extent that they are vague, ambiguous, overly broad, unduly burdensome, not limited in time or scope, and not relevant to the subject matter involved in the pending action.
2. Defendant objects to the Interrogatories to the extent that they seek documents protected from discovery by the attorney-client privilege, work-product doctrine, or any other privilege or exemption from discovery permitted under law.
3. Defendant objects to the Interrogatories to the extent that the information requested is known to Plaintiff, to the extent that the Interrogatories



require the identification or production of documents, writing, records, or publications in the public domain or information that is equally available to or already in the possession of Plaintiff or that seek information that can be obtained from third parties with less burden and expense than obtaining them from Defendant.

4. Defendant objects to the Interrogatories to the extent that they call for or require disclosure of information that is not in Defendant's possession, custody, or control.

5. Defendant objects to the Interrogatories to the extent they seek proprietary or other confidential business and/or commercial information.

6. Defendant reserves the right to take appropriate measures to protect the privacy of individuals or parties not involved in this litigation.

7. Defendant is continuing their investigation and reserve the right to rely on any facts, documents, or other evidence it may develop or that may come to its attention at a later time. Defendant's answers to these Interrogatories are based on information known at this time. Defendant specifically reserves the right to supplement or amend its answers to the Interrogatories at any time before trial.

Answers

1. If you deny Request for Admission No. 2 below, state with specificity and what authority, if any, Dr. Cook had relating to the contract between the Plaintiff and the Defendant, Ohio Imaging.

Answer: Dr. Cook was not a party to the contract.

2. Set forth a list of the specific damages claimed by the Defendant, Ohio Imaging Associates, Inc., state how the damages were calculated, and identify all documents that support the damages claimed by the Defendant, Ohio Imaging Associates, Inc.

Answer: See OIA's Answers to Plaintiff's First Set of Interrogatories.

Comes now Defendant, Ohio Imaging Associates, Inc., (hereinafter "IOA") by and through its undersigned attorneys and files this their Response to Plaintiff's Second Set of Requests for Production, served on or about February 14, 2019, stating the following:

GENERAL OBJECTIONS

1. Defendant objects to each and every Request to the extent it may be construed as calling for information subject to a claim of the attorney-client privilege, work product doctrine, right to privacy, or any other lawful privilege or immunity afforded by law.

2. Defendant objects to each and every Request to the extent that it may be construed as calling for information that constitutes trade secrets or other confidential or proprietary information relating to Defendant or others.

3. Defendant objects to each and every Request to the extent it seeks to impose obligations beyond those permitted under the South Carolina Rules of Civil Procedure or the local rules of this Court.

4. Defendant objects to each and every Request to the extent it seeks information that is a matter of public record or is as easily accessible to Plaintiff as it is to Defendant.

5. Defendant objects to each and every Request to the extent it seeks information that is already within Plaintiff's possession, custody, or control, or has previously been made available to Plaintiff.

6. Defendant objects to each and every Request to the extent it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence or, if relevant, so remote as to make its disclosure of little or no practical benefit to Plaintiff while imposing an unwarranted and extreme burden and expense on Defendant in ascertaining and disclosing such information. By the Responses set forth below, Defendant reserves the right to make all pertinent evidentiary objections at any stage in these proceedings.

7. Defendant objects to each and every Request to the extent it is not reasonably limited as to time or scope and, as a result, is overbroad, vague, ambiguous, unduly burdensome, and oppressive.

8. Defendant is continuing its investigation and reserves the right to rely on any facts, documents, or other evidence it may develop or that may come to its attention at a later time. Defendant's Responses to these Requests are based on information known at this time. Defendant specifically reserves the right to supplement or amend its Responses to the Requests at any time before trial.

RESPONSES

1. Any and all documents supporting the damages claimed by the Defendant, Ohio Imaging Associates, Inc. including:

- a. Tax returns for years 2016, 2017 and 2018;
- b. Agreements and/or contracts that the Defendant contends were impacted by the work performed by the Plaintiff;
- c. All documents supporting any claim for "actual damages";
- d. All documents supporting any claim for "lost profits";
- e. All documents supporting any claim for "consequential damages"; and
- f. All documents supporting any claim for "damages to the commercial project office suite..." as alleged in Paragraph 31(e) of the Answer and Counterclaim.

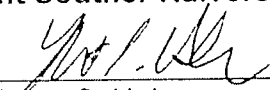
RESPONSE: 1(a): See General Objections 1,2, 3, 6 and 7. The request has no relevance to any claim or defense in this lawsuit.

1(b)-(f): See OIA's Answers to Plaintiff's First Set of Interrogatories, No. 15, and documents produced in response to Plaintiff's First Set of Requests for Production.

2. Any and all documents relating to how the liquidated damages amount specified in the contract was determined.

RESPONSE: See Answers to Plaintiff's First Set of Interrogatories, No. 15, and documents produced in response to Plaintiff's First Set of Requests for Production.

Brent Souther Halversen, LLC

By:  _____

Brent S. Halversen
751 Johnnie Dodds Blvd., Suite 200
Mount Pleasant, SC 29464
T: 843-284-5790
F: 864-326-4844
Email: brent@halversenlaw.com

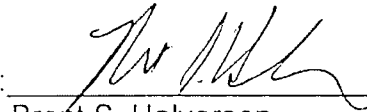
3/18, 2019.
Mount Pleasant, South Carolina

CERTIFICATE OF SERVICE

I certify that I served the Answers to Plaintiff's Second Set of Interrogatories and Requests for Production upon all counsel of record by affixing same with proper postage placing same with the United States Postal Service addressed to the counsel's last known address on this 3/18 day of March, 2019.

Brent Souther Halversen, LLC

By: _____



Brent S. Halversen
751 Johnnie Dodds Blvd., Suite 200
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T: 843-284-5790
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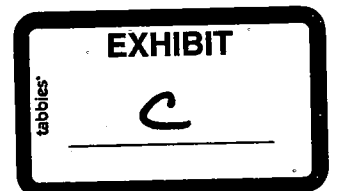
3/18, 2019.
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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
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COUNTY OF CHARLESTON)	CASE NO. 2018-CP-10-3825
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K-CON, INC.,)	
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Plaintiff,)	
)	
vs.)	<u>OHIO IMAGING ASSOCIATES, INC'S</u>
)	<u>RESOPONSES TO PLAINTIFF'S THIRD</u>
)	<u>SET OF REQUESTS FOR</u>
)	<u>PRODUCTION</u>
)	
KING STREET ENTERPRISES, LLC)	
and OHIO IMAGING ASSOCIATES INC.)	
)	
)	
Defendants.)	
)	

Comes now Defendant, Ohio Imaging Associates, Inc., (hereinafter "OIA") by and through its undersigned attorneys and files this their Responses to Plaintiff's Third Set of Requests for Production, served on or about April 2, 2019, stating the following:

GENERAL OBJECTIONS

1. Defendant objects to each and every Request to the extent it may be construed as calling for information subject to a claim of the attorney-client privilege, work product doctrine, right to privacy, or any other lawful privilege or immunity afforded by law.
2. Defendant objects to each and every Request to the extent that it may be construed as calling for information that constitutes trade secrets or other confidential or proprietary information relating to Defendant or others.



3. Defendant objects to each and every Request to the extent it seeks to impose obligations beyond those permitted under the South Carolina Rules of Civil Procedure or the local rules of this Court.

4. Defendant objects to each and every Request to the extent it seeks information that is a matter of public record or is as easily accessible to Plaintiff as it is to Defendant.

5. Defendant objects to each and every Request to the extent it seeks information that is already within Plaintiff's possession, custody, or control, or has previously been made available to Plaintiff.

6. Defendant objects to each and every Request to the extent it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence or, if relevant, so remote as to make its disclosure of little or no practical benefit to Plaintiff while imposing an unwarranted and extreme burden and expense on Defendant in ascertaining and disclosing such information. By the Responses set forth below, Defendant reserves the right to make all pertinent evidentiary objections at any stage in these proceedings.

7. Defendant objects to each and every Request to the extent it is not reasonably limited as to time or scope and, as a result, is overbroad, vague, ambiguous, unduly burdensome, and oppressive.

8. Defendant is continuing its investigation and reserves the right to rely on any facts, documents, or other evidence it may develop or that may come to its attention at a later time. Defendant's Responses to these Requests are based on information known at this time. Defendant specifically reserves the right to supplement or amend its Responses to the Requests at any time before trial.

RESPONSES

1. Any and all correspondence of any type whatsoever between Ohio Imaging, its officers, directors, employees, and agents, and K-Con, Inc. relating to the work at 484 King Street, Suite 205, Charleston, South Carolina (hereinafter "the Project"), including emails, letters, and text messages.

RESPONSE: See General Objection Number 5 above. Notwithstanding and without waiving said objection, see previously served responses to Plaintiff's First and Second Set of Requests for Production.

2. Any and all documents of any type whatsoever in the possession and control of Ohio Imaging, its officers, directors, employees that relate to the work performed by K-Con, Inc. at the Project.

RESPONSE: See previously served responses to Plaintiff's First and Second Set of Requests for Production.

3. Any and all correspondence of any type whatsoever between Ohio Imaging, its officers, directors, employees, and agents, and King Street Enterprises, LLC, its members, officers, employees and agents, relating to the work at the Project, including emails, letters, and text messages.

RESPONSE: See previously served responses to Plaintiff's First and Second Set of Requests for Production.

4. Any and all correspondence of any type whatsoever between Ohio Imaging, its officers, directors, employees, and agents, and s.arch+studio, llc, (the Architect) relating to the work at the Project, including emails, letters, reports and text messages.

RESPONSE: See previously served responses to Plaintiff's First and Second Set of Requests for Production.

5. Any and all correspondence of any type whatsoever between Ohio Imaging, its officers, directors, employees, and agents, and CDDC, LLC (the electrical engineer) relating to the work at the Project, including emails, letters, and text messages.

RESPONSE: See previously served responses to Plaintiff's First and Second Set of Requests for Production.

6. Any and all correspondence of any type whatsoever between Ohio Imaging, its officers, directors, employees, and agents, and ECS Southeast, LLP (ECS) relating to the work at the Project, including emails, letters, reports, and text messages.

RESPONSE: Upon information and belief, and correspondence is limited to transmittal documents and invoices. Upon their location that will be forwarded to Plaintiff or they may be obtained through subpoena to ECS.

7. For the period of August 2017 through December 2018, provide any and all documents, including invoices, checks and financial documents showing lease payments from Ohio Imaging to King Street Enterprises, LLC relating to the Project.

RESPONSE: Any and all documents substantiating the lost rent claim will timely be provided in advance of the trial of this matter.

8. Any and all documents relating to any work performed at the Project, by Ohio Imaging, either directly or indirectly by contractors, material suppliers or subcontractors to Ohio Imaging (other than by K-Con, Inc.), between April 1, 2018 and August 1, 2018, including but not limited to: installation of furniture, installation of computers, installation of internet services, installation of phones, days employees or contractors were at the Project, records showing entry by any person into Suite 205, documents showing each day Ms. Cook was in Suite 205, and documents showing each day Dr. Cook was in Suite 205.

RESPONSE: OIA is researching the records requested and will provide them once located.

9. Any and all documents relating to the operations of Ohio Imaging during the period of April 1, 2018 through August 1, 2018, including but not limited to: invoices for any work performed by Ohio Imaging, financial documents showing expenses incurred by Ohio Imaging, checks, lease payments, contracts, agreements, purchase orders, invoices, payroll records, distributions, and payment to shareholders.

RESPONSE: Objection; the request is overlybroad and unduly burdensome and not limited in scope. Notwithstanding said objection, OIA will produce responsive documentation related to the project at 484 King Street only, and is researching the records requested.

10. Any and all documents relating to approval by King Street Enterprises, LLC of the improvements to Suite 205 by Ohio Imaging.

RESPONSE: **None.**

11. Any and all documents relating to "Carolina Custom Air Minisplit Install" and the \$4,100.00 claimed as damages, including: emails, text messages, letters, contracts, agreements, invoices, pay applications, purchase orders, proof of payment, checks, inspection reports, drawings, specifications, and permits.

RESPONSE: **See attached.**

12. Any and all documents relating to "Cook and Boardman" and the \$2,039.03 claimed as damages, including: emails, text messages, letters, contracts, agreements, invoices, pay applications, purchase orders, proof of payment, checks, inspection reports, drawings, specifications, and permits.

RESPONSE: **See attached.**

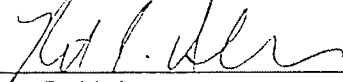
13. Any and all documents relating to "Palmetto Craftsmen" and the \$33,002.75 claimed as damages, including: emails, text messages, letters, contracts, agreements, invoices, pay applications, purchase orders, proof of payment, checks, inspection reports, drawings, specifications, and permits.

RESPONSE: **See attached.**

14. Any and all documents relating to "VSCF" and the \$117.91 claimed as damages, including: emails, text messages, letters, contracts, agreements, invoices, pay applications, purchase orders, proof of payment, checks, inspection reports, drawings, specifications, and permits.

RESPONSE: **See previously served responses to Plaintiff's First and Second Set of Requests for Production.**

Brent Souther Halversen, LLC

By: 

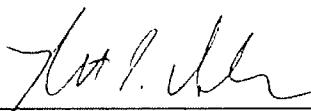
Brent S. Halversen
751 Johnnie Dodds Blvd., Suite 200
Mount Pleasant, SC 29464
T: 843-284-5790
F: 864-326-4844
Email: brent@halversenlaw.com

5/8, 2019.
Mount Pleasant, South Carolina

CERTIFICATE OF SERVICE

I certify that I served the Responses to Plaintiff's Third Set of Requests for Production upon all counsel of record by affixing same with proper postage placing same with the United States Postal Service addressed to the counsel's last known address on this 8th day of May, 2019.

Brent Souther Halversen, LLC

By: 
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Email: brent@halversenlaw.com

May 8th, 2019.
Mount Pleasant, South Carolina

PEDERSEN & SCOTT, P.C.
ATTORNEYS AT LAW

P 843-556-5656
F 843-556-5635
bscott@pslawpc.com

May 20, 2019

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

RE: K-Con, Inc. v. King Street Enterprises, LLC and Ohio Imaging Associates, Inc.
C.A. No. 2018-CP-10-3825

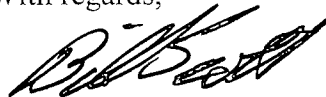
Dear Ms. Armstrong:

Enclosed for filing in the above-referenced matter, please find an original and one copy of the Motion Slip and Notice of Motion and Motion to Compel, together with a check in the amount of \$25.00. Please file the original and return a stamped-in copy in the enclosed return addressed stamped envelope.

Please be advised that Plaintiff withdraws its prior Notice of Motion and Motion to Compel filed on January 22, 2019, in this matter.

Your assistance in this matter is greatly appreciated. Please call me if you have any questions.

With regards,



William A. Scott

WAS/teb

Enclosures

cc: K-Con, Inc. (w/encs.)
Brent S. Halversen, Esq. (w/encs.)